

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Bill Campbell Analyst: Gloria McConnell Bill Number: AB 2414

Related Bills: See Legislative History Telephone: 845-4336 Amended Date: 04/23/02

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Statute Of Limitation On Collection Actions

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

X FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 21, 2002. STILL APPLIES.

X OTHER - See comments below.

SUMMARY

This bill would generally preclude the Franchise Tax Board (FTB) from collecting individual personal income tax liabilities that are more than 10 years old.

SUMMARY OF AMENDMENTS

The April 23, 2002, amendments would:

- clarify that the statute of limitations (SOL) would be extended on collections with respect to civil actions in court until the collection action, probate claim, or judgment is no longer enforceable;
- provide that the SOL on collections would be suspended from the time that an offer in compromise agreement is accepted by the FTB until the terms of the offer are fulfilled by the taxpayer;
- delay until 2010 the operative date for the SOL on collections; and
- make technical corrections.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2003. However, it would be operative with respect to assessments of tax that are final on or after January 1, 2000. For purposes of the operative date, assessments that are final before January 1, 2000, would be deemed to be final on January 1, 2000.

Board Position:

<u> </u> S	<u> </u> NA	<u> </u> NP
<u> </u> SA	<u> </u> O	<u> </u> NAR
<u> </u> N	<u> </u> OUA	<u> X </u> PENDING

Legislative Director

Date

Brian Putler

5/31/02

POSITION

Pending.

Summary of Suggested Amendments

A suggested amendment is attached to further clarify that the extension on the collection SOL due to civil actions is extended only until the judgment is satisfied or no longer enforceable.

ANALYSIS

THIS BILL

Under this bill, a tax liability that is due and payable for more than 10 years generally would not be subject to collection by FTB. The provision is comparable to that provided under federal law. The prohibition on collections under this bill would begin on and after January 1, 2010. However, levies and notices of tax liens issued during the 10-year collection period would expressly continue in effect until they expire. Once the 10-year collection SOL expires, levies could not be issued or renewed. For civil action in court, the SOL on collections would be extended until the judgment is satisfied or unenforceable. Additionally, in cases where a taxpayer submits an offer in compromise, files for bankruptcy, or owes child support debts, the 10-year collection SOL would be suspended as specified. These extension and suspension periods would be comparable to that allowed under federal law.

Further, the annual written notice of tax delinquency that FTB is required to send to taxpayers under the Taxpayers' Bill of Rights would be sent only during the 10 years that a delinquency is subject to collection. This provision is also comparable to federal law.

IMPLEMENTATION CONSIDERATION

The amendment that would extend the SOL due to a civil action may lead to confusion. It is unclear whether the word "unenforceability" modifies the assessment of tax or the civil action. This provision, therefore, should be clarified so that the extension of the SOL would expire when the action against the taxpayer is satisfied or unenforceable "under the laws applicable to the enforcement of the civil judgment." The suggested amendment is attached.

TECHNICAL CONSIDERATION

This bill applies only to individuals. However, various provisions make reference to "taxpayer," rather than individual. To remove any inference that this bill is intended to apply to any taxpayers other than individuals, the references to "taxpayer" should be changed to "individual," as provided in the attached amendments.

FISCAL IMPACT

Departmental Costs

Given that the operative date would begin seven years after the effective date, it would be premature to attempt to determine departmental costs. However, for discussion purposes, several years ago staff estimated what it would cost FTB to implement a similar SOL provision, to be implemented January 1, 2002, and thereafter. Under that estimate, the costs could range from \$200,000 to \$250,000 for programming, testing, and related startup costs during each of the two fiscal years preceding implementation.

ECONOMIC IMPACT

Revenue Estimate

This bill, as amended, would delay the annual revenue losses until 2010, and thereafter. The revenue loss estimate of \$10 million for the bill, as introduced, was expressed in today's dollars. Since the amended bill would significantly delay implementation of the collection SOL, that estimate was revised. Considering inflation and economic factors, it is estimated that the loss attributable to this bill, as amended, may be in the range of \$10 to \$15 million annually beginning in 2010.

The provision that was added to the bill to extend the collection SOL for offers in compromise would not significantly affect the revenue loss estimate.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 2414
As Amended April 23, 2002

AMENDMENT 1

On page 2, line 14, after "unenforceable" insert:
under the laws applicable to the enforcement of civil judgments

AMENDMENT 2

On page 2, line 13, and page 3, line 10, strike out "taxpayer"
and insert:
individual